



DEFENSE LOGISTICS AGENCY
DEFENSE CONTRACT MANAGEMENT COMMAND
8725 JOHN J. KINGMAN ROAD, SUITE 2533
FT. BELVOIR, VIRGINIA 22060-6221

APR 14 1997

IN REPLY
REFER TO AQOE

**MEMORANDUM FOR COMMANDERS, DEFENSE CONTRACT MANAGEMENT
DISTRICTS**

**SUBJECT: DCMC Memorandum No. 97- 44 , Acquisition of Government Property
(INFORMATION)**

This is an INFORMATION memorandum effective immediately and ending September 30, 1997. Target audience: Contract Administration Office Commanders, Administrative Contracting Officers, and Property Administrators.

An ongoing Department of Defense Inspector General audit, as well as the Special Property Management Review at 20 Selected DoD Contractors completed last October, have disclosed a significant number of unauthorized or improper acquisitions by contractors under cost reimbursement contracts. The most common problems encountered were unauthorized acquisitions of general purpose plant equipment such as personal computers and furniture. The Director, Defense Procurement, as well as the Defense Contract Audit Agency, have recently addressed this issue (attachments). Based on questions we continue to receive, I would like to reiterate our policies in this area.

The Federal Acquisition Regulation (FAR) requires contractors to furnish all plant equipment required for performing Government contracts unless one of the specific exceptions at FAR 45.302-1 is met. Absent meeting such exceptions, plant equipment costs are likely to be unallowable as direct charges. When processing contractor requests to subcontract for the acquisition of plant equipment under the provisions of FAR 52.244-2(a)(2), Administrative Contracting Officers (ACOs) must ensure, prior to granting consent, that the proposed acquisition meets one of the exceptions identified at FAR 45.302-1. In those cases where the property provided to the contractor is based upon the exception at 45.302-1(a)(4), the Procuring Contracting Officer cognizant of the contract should provide a copy of the Determination and Finding to the ACO for inclusion in the contract file.

Property Administrators (PAs) also play a major role in preventing unauthorized acquisition by performing thorough reviews of the Acquisition Function during the property control system analysis, as previously addressed in DCMC Memorandum No. 96-75, FY 97 Property Management Strategies, dated November 9, 1996. PAs must challenge the acquisition of direct-charged plant equipment if it appears that the contractor did not receive the requisite Contracting Officer consent or the FAR exceptions for providing plant equipment were not met. The PA shall bring such matters to the attention of the ACO with a recommendation to determine the

allowability of the costs of the items. Also, if terms of a contract improperly authorize the acquisition of general purpose plant equipment by contractors, ACOs should call attention of this fact to the responsible PCO and obtain an understanding of why it was authorized. An important aspect of a proposal evaluation is determining the reasonableness of the types and quantity of materials and other items proposed by contractors. When initiating technical reviews, the contract administration office should consider requesting evaluation of any contractor-proposed acquisition of general purpose plant equipment. As a reminder, FAR 45.302-3(c) states that under no circumstances shall profit or fee be allowed on the acquisition of facilities, including plant equipment.

The Defense Contract Audit Agency (DCAA) will provide assistance and advice in response to ACO requests regarding the allowability of direct-charged contractor plant equipment costs. Examples of contractor direct-charged facility purchases causing concern to the ACO should be shared with the cognizant DCAA office.

The property management provisions of the FAR are being revised by a team led by the Director, Defense Procurement, and should be published this summer. The intent of the revised FAR is to be at least as restrictive on providing general purpose plant equipment to contractors as is the current FAR. DCMC must play a key role in ensuring adherence to these policies. Please direct any questions you may have to Mr. Paul Farley, Property, Closeout, and Terminations Team, telephone (703)767-2443 or DSN 427-2443, Email address: paul_farley@HQ.DLA.MIL.



JILL E. PETTIBONE
Executive Director
Contract Management Policy

Attachments



ACQUISITION AND
TECHNOLOGY

OFFICE OF THE UNDER SECRETARY OF DEFENSE

3000 DEFENSE PENTAGON
WASHINGTON, DC 20301-3000



November 25, 1996

DP/MPI

MEMORANDUM FOR DIRECTORS OF DEFENSE AGENCIES
DEPUTY FOR ACQUISITION AND BUSINESS MANAGEMENT,
ASN(RD&A)/ABM
DEPUTY ASSISTANT SECRETARY OF THE AIR FORCE
(CONTRACTING), SAF/AQC
DIRECTOR PROCUREMENT POLICY, ASA(RD&A)/SARD-PP
DEPUTY DIRECTOR (ACQUISITION), DEFENSE LOGISTICS
AGENCY

SUBJECT: Government Property

A recent Defense Contract Management Command (DCMC) special review identified contractor acquisition and direct charging of general purpose equipment to be a wide spread problem. The review disclosed that contractors are purchasing general purpose items such as personal computers, fax machines, camcorders, and furniture, and allocating the acquisition costs as direct costs to cost type contracts. I am particularly concerned by DCMC's allegation that our contracts often facilitate that practice. I have attached a copy of a DCMC memorandum that provides an overview of that and other problems disclosed by the review.

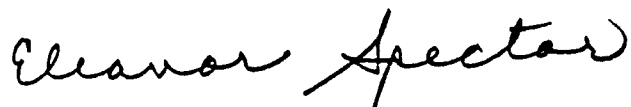
Generally, FAR 31.202 precludes a contractor from allocating general purpose equipment acquisition costs directly to a Government contract if costs incurred for other general purpose equipment in like circumstances have been charged as indirect costs. Please be sure your contracting officers are familiar with the very limited circumstances under which general purpose equipment costs may be allocated directly to a government contract. A contractor's contention that general purpose equipment was acquired solely for performance of a specific contract does not alter the fact that under the contractor's cost accounting practices and FAR 31.202, the acquisition costs of general purpose equipment might not qualify for treatment as direct costs.

The inter-agency Part 45 re-write team that I chair has developed a draft Government Property clause for cost type contracts that specifically precludes contractors from acquiring equipment for the Government unless the equipment is specified as a deliverable end item.



ATTACHMENT 1

I support strongly DCMC's effort to improve government property management practices. Each of you can help by assuring that our contracts do not direct contractors to acquire, or specify the use of, general purpose equipment. When there is a legitimate need to have a contractor acquire such property, your contracting officers should work closely with the Contract Administration Office to assure that the property is properly classified and a cost treatment consistent with the contractor's cost accounting practices is identified prior to contract award or modification.

A handwritten signature in black ink, reading "Eleanor Spector". The signature is fluid and cursive, with the first name "Eleanor" and the last name "Spector" clearly distinguishable.

Eleanor R. Spector
Director of Defense Procurement

Attachment

cc: Mr. John Goodman (DUSD(IA&I))



DEFENSE CONTRACT AUDIT AGENCY

8725 JOHN J. KINGMAN ROAD, SUITE 2135
FORT BELVOIR, VA 22060-6219

IN REPLY REFER TO

PIC 730.5.90.1

31 December 1996
96-PIC-202(R)

MEMORANDUM FOR REGIONAL DIRECTORS, DCAA DIRECTOR, FIELD DETACHMENT, DCAA

SUBJECT: Audit Guidance on Government Property

The Director of Defense Procurement recently issued a memorandum to express concerns about contractors acquiring general purpose equipment, and allocating the acquisition costs as direct costs to government contracts. (A copy is enclosed for your reference.) In a review of the top 23 contractors who have government property in their possession, DCMC found the acquisition and direct charging of general purpose equipment (such as personal computers, fax machines, camcorders, and furniture) under cost type contracts to be a widespread problem. Of particular concern to the Director of Defense Procurement is DCMC's allegation that government contracts often facilitate this practice.

DCMC found contracts that either specifically stated that contractors were free to purchase whatever property was needed for the contract performance, or incorrectly classified equipment identified in the contract as material, special test equipment, or agency-peculiar property. DCMC will be aggressively pursuing these problems during FY 1997.

DCAA is uniquely positioned to strongly support any DCMC requests or referrals in this regard. DCAA has long-established guidance on assessing contractor direct vs. indirect cost classification procedures and assuring that the contractor's cost treatment is consistent with its disclosed/established cost accounting practices (CAM paragraphs 6-608.3b(2), 8-202, and 9-311.1). Our guidance provides for assuring that costs charged to government work as direct costs are treated in the same manner on the contractor's other work, as required by FAR 31.202 (CAM 5-1010a and Short ICQ, Part E.3).

Auditors should be alert for instances described in the enclosure, e.g. contractor proposing general purpose equipment as a direct cost or contractor using general purpose equipment on other work when it was initially charged direct to one contract. When instances are referred or observed, the auditor should determine whether the proposed or actual cost treatment is in accordance with the contractor's policy on direct and indirect cost classification and FAR 31.202. It is essential to examine all of the facts and to avoid making a determination on the basis of general information or nomenclature. Obtain the assistance of the contract administration office regarding item classification. Apparent noncompliances should be discussed with contractor management to the extent necessary to assure the validity of the findings. Determine

ATTACHMENT 2

PIC 730.5.90.1

Subject: Audit Guidance on Government Property

the impact of the finding on the contract. Coordinate with the contracting officer to assure that he/she understands the situation and its impact on their contract. In preparing audit reports follow the guidance in the CAM Chapter 10 section pertinent to the assignment.

Field audit office personnel should direct any questions regarding this memorandum to their regional offices. Regional personnel office should direct any questions to John A. Wares, Program Manager, Incurred Cost Division, at (703) 767-2250; fax (703) 767-2279; or e-mail *pic@hq1.dcaa.mil.

Robert DiMucci

/for/

Lawrence P. Uhlfelder

Assistant Director

Policy and Plans

Enclosure

DDP Memorandum dated 25 November 1996

DISTRIBUTION: C